

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6925

BILL NUMBER: SB 305

NOTE PREPARED: Jan 22, 2007

BILL AMENDED:

SUBJECT: Fireworks and Novelties.

FIRST AUTHOR: Sen. Mrvan

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits the sale of consumer and display fireworks, with certain exceptions. It makes it a Class A misdemeanor to ignite, discharge, or use consumer or display fireworks, with certain exceptions. It deletes language concerning the sales of certain fireworks from tents. The bill requires the Fire Prevention and Building Safety Commission to adopt rules for permits for the possession and sale of consumer and display fireworks. The bill also repeals language concerning special discharge locations for the use of certain fireworks. It makes conforming amendments.

Effective Date: Upon passage.

Explanation of State Expenditures: The Fire Prevention and Building Safety Commission must adopt rules for the granting of permits for the possession and discharge of consumer or display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals. The Commission must also establish fees for these permits that will be paid into the Fire and Building Services Fund. The Department of Homeland Security (DHS) provides administrative services to the Commission. The DHS should be able to adopt rules given its existing budget and resources. The Commission must carry out duties imposed upon it under interim written guidelines approved by the State Fire Marshal (SFM). Rules must be written by December 31, 2008.

The bill allows the use of consumer and display fireworks by municipalities, fair associations, and other organized groups. Retailers can sell novelties from a tent, and large distributors of fireworks can still sell fireworks to permitted entities. The SFM or a local responding fire department would still be required to inspect tents and structures. The number of structures and tents would be greatly reduced. SFM expenses should also decline.

Penalty: A person who recklessly, knowingly, or intentionally possesses, transports, or delivers consumer or display fireworks, except as authorized, commits a Class A misdemeanor.

Explanation of State Revenues: The Fire Prevention and Building Safety Commission must establish fees for permits for municipalities, fair associations, and organizations, or groups of individuals that purchase and display fireworks. Fees are paid into the Fire and Building Services Fund. The amount of revenue that will be generated by the fees will depend on the number and nature of local displays. Revenue from the fund is used to finance the operations of fire and building services within the DHS.

Sales Tax Revenue: The bill could affect revenues collected by the Department of Revenue (DOR) if limiting the use and sale of fireworks results in less sales tax collected on fireworks. From January through October 2006, an estimated \$2.6 M in Sales Tax had been collected on the sale of fireworks. Sales tax revenue is distributed as follows:

- 49.192% to the state General Fund
- 50.0% to the Property Tax Replacement Fund
- 0.635% to the Public Mass Transportation Fund
- 0.033% to the Industrial Rail Service Fund
- 0.14% to the Commuter Rail Service Fund.

Public Safety Fees. The bill could affect revenues collected by the DOR if limiting the use and sale of fireworks results in less public safety fees collected on fireworks. From January through October 2006, the DOR had collected \$2.2 M in public safety fees. The specific impact is indeterminable.

Background on Public Safety Fees: HEA 1099-2006 provided that a public safety fee must be imposed on retail transactions made in Indiana of fireworks. Persons who acquire fireworks in a retail transaction are liable for the fee on the transaction and must pay the fee to the retailer. The public safety fee must be deposited in the state General Fund. The fee is based on the gross retail income received by a retailer in a unitary transaction of fireworks and is imposed at the following rates.

Public Safety Fee	Gross Retail Income from the Retail Unitary Transaction
0	less than \$ 0.10
0.01	at least \$ 0.10 but less than \$ 0.30
0.02	at least \$ 0.30 but less than \$ 0.50
0.03	at least \$ 0.50 but less than \$ 0.70
0.04	at least \$ 0.70 but less than \$ 0.90
0.05	at least \$ 0.90 but less than \$ 1.10
5% of gross retail income	at least \$1.10

HEA 1099-2006 appropriated \$1 M from the first \$1 M collected from public safety fees to the DHS to provide regional training for public safety service providers or advanced training programs during the period beginning July 1, 2006, and ending June 30, 2007.

HEA 1099-2006 also appropriated from the public safety fees in excess of \$1 M, \$1 M to the DHS beginning July 1, 2006, and ending June 30, 2007, to be used at the discretion of the DHS executive director for deposit in the State Disaster Relief Fund to be used to pay for damage resulting from a disaster to a public facility; to be used to defray costs of response and recovery; or to be used to pay 25% of the costs required to be paid by local jurisdictions which have accrued as a result of a disaster.

The remaining revenue from the public safety fee is deposited in the state General Fund.

Penalty: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: The bill limits the use of fireworks. Local units could experience a decrease in expenditures for public safety and emergency medical services that could result from the reduced use of fireworks. The Indiana State Department of Health tracked fireworks injuries during 2003 and 2004. During that time, 454 injuries were reported statewide. Enforcement and inspection expenses would be minimal.

Penalty: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOR; DHS.

Local Agencies Affected: Local public safety and emergency medical services agencies; Trial courts, local law enforcement agencies.

Information Sources: DOR; DHS.

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